

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



October 21, 2002

CSSIN LETTER: 02-25

ALL IV-D DIRECTORS
ALL COUNTY ADMINISTRATIVE OFFICERS
ALL BOARDS OF SUPERVISORS

SUBJECT: CHILD SUPPORT LEGISLATION 2001-2002

The Governor recently signed legislation related to child support services. The purpose of this letter is to provide you with general information on those bills. Any required regulations or policy instructions will be provided under a separate letter.

AB 2934 (Wayne) Chapter 349 Effective January 1, 2003

Updates the Uniform Interstate Family Support Act (UIFSA) to ensure that family support orders are clear and enforceable among the various states. It also transfers specified enforcement responsibilities from the Attorney General to the Department of Child Support Services (DCSS). Note: The provisions of this bill are not effective until July 1, 2004, at the earliest. AB 2934 makes the following changes:

- Reinforces the national one-order/one-state regime, created by UIFSA, by strengthening the rules for selecting a single controlling order in the event orders from multiple states apply to a single child.
- Updates provisions of the Act dealing with personal jurisdiction, simultaneous proceedings, jurisdiction to modify support orders, conversion of support obligations stated in foreign currency, determination of paternity, determination of a controlling child support order, and an employer's compliance with two or more income withholding orders.
- Transfers responsibility for performing duties of the state information agency from the Attorney General to the DCSS.

<p><u>Reason for this Transmittal</u></p> <p><input type="checkbox"/> State Law or Regulation Change</p> <p><input type="checkbox"/> Federal Law or Regulation Change</p> <p><input type="checkbox"/> Court Order or Settlement Change</p> <p><input type="checkbox"/> Clarification requested by One or More Counties</p> <p><input checked="" type="checkbox"/> Initiated by DCSS</p>



- Authorizes DCSS to take appropriate action if it determines a foreign country or political subdivision has established a reciprocal arrangement with California for child support.
- All provisions of the bill become operative after July 1, 2004, and are contingent upon either an exemption by the federal Office of Child Support Enforcement or Secretary of Health and Human Services or by an actual federal law change.

AB 3032 (Committee on Judiciary) Chapter 927 Effective January 1, 2003

Makes technical and clarifying changes to the child support reform provisions enacted in 1999. AB 3032 makes the following changes:

- Requires that an employer or health plan must commence health care coverage within 30 days after service of the assignment order unless an order is received to quash the health insurance assignment.
- Modifies the procedure for recording an abstract, consistent with federal law, by eliminating the labor intensive procedure of submitting the abstract to the superior court for certification.
- Clarifies that the court makes an order for custody, visitation or child support based upon a voluntary declaration of paternity and not on a finding of paternity in the underlying action.
- Extends through December 31, 2004, DCSS' ability to implement necessary provisions through family support division letters or similar instructions from the director and DCSS' ability to adopt regulations filed with the Office of Administrative Law deemed as emergency regulations.
- Deletes the State Investment Funds Project which was established to provide loan authority to local child support agencies (LCSAs) in order to encourage development and implementation of innovative ideas to increase child support collections above projected growth. During the past two fiscal years, DCSS has not received any applications from the counties requesting the loan authority due to DCSS providing funding to the LCSAs and DCSS' funding of innovative projects at the local level.
- Requires LCSAs to provide welfare recipients or former welfare recipients a notice of the amount of assigned support payments made on behalf of the recipient or former recipient on a monthly basis. The bill aligns state law with federal law by requiring the notice be sent monthly instead of annually.
- Requires DCSS to continue to report annually to the Legislature on county performance based on federal standards and to replace the quarterly reports with semiannual reports.

- Clarifies that the funds used by DCSS for incentives to reward up to ten LCSAs annually that meet or exceed specified standards are unallocated funds and not unspent funds.
- Changes the timeframe for a state hearing to be set to commence from 30 days to within 45 days after the request is received by the state hearing office. Unless the time period is waived by the complainant, the proposed hearing decision will be rendered by the state hearing office within 75 days after the request for a state hearing was received. DCSS has 15 days from the date of the proposed decision in which to act upon the decision.
- Amends law pertaining to “mandated reporters” of child abuse by changing “family support officers” of the district attorneys’ office to “caseworkers” of the LCSAs.
- Makes several technical amendments to correct cross-references to obsolete code sections or inappropriate sections, changes “district attorney” to “local child support agency” and changes an incorrect reference to the “Department of Child Support Services” to the “Department of Health Services.” Corrects a reference of “defendant” to “child support obligor.”

AB 3033 (Committee on Judiciary) Chapter 759 Effective January 1, 2003

Transfers the California Parent Locator Service (CPLS) and the Central Registry programs from the Department of Justice (DOJ) to the Department of Child Support Services.

AB 3033 makes the following changes:

- Provides by letter of agreement with DOJ that DCSS will assume responsibility for leadership and staff of the California Parent Locator Service and Central Registry beginning July 1, 2003.
- Gives DCSS the same access as DOJ to the property tax exemption file maintained by the Board of Equalization and used for matching child support obligor information.

SB 97 (Kuehl) Chapter 539 Effective January 1, 2003

Clarifies that orders for child support accrue interest on the total unpaid principal. A California Court of Appeal decision in Dupont v. Dupont held that the accrual of interest on unpaid child support arrearages is halted where the court issues an order which calculates the amount of past due support owed under a prior order, and sets a monthly amount to reduce those arrearages. The court held that interest accrued only on any missed installment payments, not on the lump sum unpaid balance. SB 97 makes the following changes:

- Abrogates the California Court of Appeal decision in Dupont v. Dupont and returns to the prior law requiring that interest accrues on the total unpaid principal balance and not on each missed installment payment.

- Provides that no support order, after the initial order or judgment, is an installment payment.
- Maintains consistency within the courts in the application of interest thereby preventing reprogramming of the consortia's automated child support computer systems that would have been necessary in order to handle Dupont.

SB 1658 (Soto)

Chapter 304

Effective January 1, 2003

Prohibits an obligor from raising the defense of laches except to that portion of money owed to the state. Laches is an equitable defense usually raised against claims for payment of old debts. It is used as a claim of unfairness, when no other time limitation applies, that a custodial parent has unreasonably delayed in bringing a suit to enforce payment of a support judgment. It may be applied when a court finds the custodial party has not only unreasonably delayed, but that the delay has prejudiced the obligor to the extent that enforcing payment at this late date would be unfair or inequitable. SB 1658 makes the following changes:

- Prohibits an obligor who has violated a court order for payment of child, family or spousal support from raising the defense of laches in any action brought against him with respect to the judgment including arrearages, interest and penalties that are due the custodial party.
- Allows court to apply laches to child support debts owed to the state.
- Maintains state policy that child, spousal and family support orders need not be renewed and are enforceable until paid in full as they pertain to money paid to families.

Information on legislative bills and bill text is available from the California Legislative Home Page on the Internet. The address is: www.leginfo.ca.gov.

If you have any questions pertaining to the information contained in this letter, please contact me at (916) 464-5502.

Sincerely,



SUSAN R. TUREK
Legislative Director